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10 **BEFORE THE**
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

14 JOHN WESLEY SHELLCROFT
1147 Cloverbrook Circle
15 Vacaville, California 95687-7912

16 Physician and Surgeon's Certificate
No. G 44107

17
18 Respondent.

Case No. D1-2000-115882

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about August 5, 2006, Complainant David T. Thornton, in his
21 official capacity as the Executive Director of the Medical Board of California, Department of
22 Consumer Affairs (Medical Board of California), filed Accusation/Petition to Revoke Probation
23 No. D1-2000-115882 against John Wesley Shellcroft (Respondent) before the Division of
24 Medical Quality.

25 2. On or about January 26, 1981, the Medical Board of California issued
26 Physician and Surgeon's Certificate No. G 44107 to Respondent. On August 15, 2006, an
27 automatic suspension order was issued pursuant to Business and Professions Code section
28 2236.1, suspending the license. To date, the license remains suspended.

1 3. On or about August 15, 2006, Arlene Krynski, an employee of the
2 Medical Board of California, served by Certified Mail a copy of the Accusation/Petition to
3 Revoke Probation No. D1-2000-115882, Statement to Respondent, Notice of Defense, Request
4 for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's
5 address of record with the Medical Board of California, which was and is as follows: 1147
6 Cloverbrook Circle, Vacaville, California 95687-7912. A copy of the Accusation/Petition to
7 Revoke Probation was also served by Certified Mail to Respondent at the additional following
8 address: Solano County Justice Detention Center, 500 Union Avenue, Fairfield, California
9 94533. A copy of the Accusation/Petition to Revoke Probation, the related documents, and
10 Declaration of Service are attached as Exhibit A, and are incorporated herein by reference.

11 4. Service of the Accusation/Petition to Revoke Probation was effective as a
12 matter of law under the provisions of Government Code section 11505, subdivision (c).

13 5. On or about August 16, 2006, and August 20, 2006, the aforementioned
14 documents were received by Respondent at the Detention Center and address of record
15 respectively. A copy of the postal returned documents are attached hereto as Exhibit B, and are
16 incorporated herein by reference.

17 6. Government Code section 11506 states, in pertinent part:

18 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
19 files a notice of defense, and the notice shall be deemed a specific denial of all parts of
20 the accusation not expressly admitted. Failure to file a notice of defense shall constitute a
21 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless
22 grant a hearing."

23 7. Respondent failed to file a Notice of Defense within 15 days after service
24 upon him of the Accusation/Petition to Revoke Probation, and therefore waived his right to a
25 hearing on the merits of Accusation/Petition to Revoke Probation No. D1-2000-115882.

26 8. California Government Code section 11520 states, in pertinent part:

27 "(a) If the respondent either fails to file a notice of defense or to appear at the
28 hearing, the agency may take action based upon the respondent's express admissions or

1 upon other evidence and affidavits may be used as evidence without any notice to
2 respondent."

3 9. Pursuant to its authority under Government Code section 11520, the
4 Medical Board of California finds Respondent is in default. The Medical Board of California
5 will take action without further hearing and, based on Respondent's express admissions by way
6 of default and the evidence before it, contained in exhibits A, B and C, finds that the allegations
7 in Accusation/Petition to Revoke Probation No. D1-2000-115882 are true.

8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent John Wesley
10 Shellcroft has subjected his Physician and Surgeon's Certificate No. G 44107 to discipline.

11 2. A copy of the Accusation/Petition to Revoke Probation and the related
12 documents and Declaration of Service are attached.

13 3. The agency has jurisdiction to adjudicate this case by default.

14 4. The Division of Medical Quality is authorized to revoke Respondent's
15 Physician and Surgeon's Certificate based upon the following violations alleged in the
16 Accusation/Petition to Revoke Probation:

17 A. Accusation:

- 18 1. Unprofessional Conduct (Bus. & Prof. Code, § 2234); and
19 2. Conviction of a Crime (Bus. & Prof. Code, § 2236).

20 B. Petition to Revoke Probation:

- 21 1. Failure to Complete the Clinical Training Program;
22 2. Failure to Obey All Laws;
23 3. Failure to Pay Cost Recovery; and
24 4. Failure to Pay Probation Monitoring Costs.

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ORDER

IT IS SO ORDERED that Physician and Surgeon's Certificate No. G 44107, heretofore issued to Respondent John Wesley Shellcroft, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 19, 2007.

It is so ORDERED February 16, 2007


FOR THE DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BARBARA YAROSLAVSKY
CHAIR

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**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation and Petition to
Revoke Probation Against:

JOHN WESLEY SHELLCROFT, II, M.D.
1147 Cloverbrook Circle
Vacaville, California 95687-7912

Physician and Surgeon's Certificate Number G
44107,

Respondent.

Case No. D1-2000-115882

**ACCUSATION AND
PETITION TO REVOKE
PROBATION**

Complainant alleges:

PARTIES

1. David T. Thornton ("Complainant") brings this Accusation and Petition to Revoke Probation solely in his official capacity as the Executive Director of the Medical Board of California.

2. On or about January 26, 1981, the Medical Board of California issued Physician and Surgeon's Certificate number G 44107 to John Wesley Shellcroft II, M.D. ("Respondent"). The Physician and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2008, unless renewed.

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3. In a disciplinary action entitled "*In the Matter of the Accusation Against John Wesley Shellcroft, II, M.D.*," case number 19-2000-115882, the Board issued a decision effective on February 17, 2004, which imposed the revocation of Respondent's Physician and Surgeon's Certificate. The revocation was stayed, and Respondent's Certificate was placed on probation with certain terms and conditions for a period of five (5) years. A copy of the decision in case number 19-2000-115882 (*In the Matter of the Accusation Against John Wesley Shellcroft, II, M.D.*) is attached as Exhibit "A" and is incorporated by reference. In the Stipulated Settlement, Respondent admitted that he had committed repeated negligent acts in the course of his care and treatment of a prisoner at the Vacaville correctional facility in June of 1998, including, among others, his failure to transfer this unstable and critically ill patient to an intensive care setting and by failing to "institute more aggressive monitoring and treatment" and thereby subjected his license to disciplinary action pursuant to Code sections 2234, subdivision (c) (repeated negligent acts).

JURISDICTION

4. This Accusation is brought before the Division of Medical Quality of the Medical Board of California, under the authority of the following laws:^{1/}

5. Section 2004 of the Code states:

"The Division of Medical Quality shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a medical quality review committee, the division, or an administrative law judge.

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1. All section references are to the Business and Professions Code unless otherwise indicated.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board."

6. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation with the requirement to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division deems proper.

7. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5, the Medical Practice Act].

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard

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of care, each departure constitutes a separate and distinct breach of the standard of care.

"(d) Incompetence.

"(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

"(f) Any action or conduct which would have warranted the denial of a certificate."

8. Section 2236, subdivision (a) of the Code states:

"The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred."

FIRST CAUSE FOR DISCIPLINE
(Unprofessional conduct)

9. Respondent is subject to disciplinary action under section 2234 of the Code in that, on December 24, 2004, Respondent engaged in unprofessional conduct by knowingly uttering and/or conveying a threat to cause bodily harm to a patient at the prison medical clinic. Respondent intended the threat to be taken seriously, that is, to intimidate or strike fear into the recipient. The circumstances are as follows:

10. On December 24, 2004, Respondent was at his work site at the California Medical Facility ("CMF") on the premises of the Solano State Prison in Vacaville. Respondent walked by a patient who asked, "What are you, some kind of psych tech?" Respondent took a baton from a nearby guard, brandished it in a threatening manner in front of the patient, and confronted the patient by saying, "What do you want to say to me now?" Respondent did not strike the patient with the baton or otherwise. As a result of this incident, the California Department of Corrections and Rehabilitation terminated Respondent from employment.

11. The context and circumstances in which Respondent's words were spoken

1 and the manner in which he used the baton constituted a threat without a lawful excuse and
2 constituted unprofessional conduct in violation of Code section 2234.

3 **SECOND CAUSE FOR DISCIPLINE**
4 (Conviction of a Crime)

5 12. Respondent is subject to disciplinary action under section 2236 of the
6 Code in that, on June 12, 2006, Respondent was convicted of misdemeanor battery in a case
7 entitled *People v. John Wesley Shellcroft*, Solano County Superior Court case number
8 FCR233095. The circumstances are as follows:

9 13. S.M. and respondent dated and lived together in S.M.'s house since 2002.

10 14. On May 23, 2006, S.M. asked respondent to move out because the
11 relationship had deteriorated.

12 15. On May 25, 2006, Respondent became angry with S.M. and pushed her
13 down against the hardwood floor. Respondent straddled S.M. and used his hands to pin her arms
14 against the floor. He used one hand to slap her several times on the face. Respondent also hit
15 her on the face. Respondent placed his hands around S.M.'s throat and tried to strangle her. A
16 short time later, Respondent allowed S.M. to get up from the floor.

17 16. S.M. grabbed her cellular telephone and attempted to call the police.
18 Respondent wrestled the phone away from S.M. and tossed it aside. Respondent pushed S.M.
19 until they reached the bedroom closet and further pushed her down against the floor. He
20 straddled her, grabbed her neck, and repeatedly banged her head against the hardwood floor.
21 Respondent spit on S.M.'s face and yelled, "I'm gonna kill you bitch, I'm gonna kill you!" This
22 type of violence occurred multiple times during the course of the evening.

23 17. S.M. sustained physical injuries as a result of the assault on May 25, 2006.
24 S.M. suffered red marks and bruising on the right side of her face, a bruise on the right side of
25 her upper lip, a bruise and swelling to her right elbow, a bruise to her right leg, and scratches
26 and/or bruising to her neck.

27 18. Respondent was arrested on May 26, 2006.

28 19. On May 31, 2006, a felony complaint was filed against Respondent

1 charging him with corporal injury to co-habitant in violation of Penal Code section 273.5,
2 subdivision (a) (count 1) and assault by means likely to produce great bodily injury in violation
3 of Penal Code section 245, subdivision (a)(1) (count 2). Respondent entered a plea of not guilty.

4 20. On June 12, 2006, Respondent withdrew his plea of not guilty and entered
5 a plea of no contest to count 1. Count 2 was dismissed, and Respondent was found guilty of
6 felony corporal punishment to a co-habitant. Respondent was placed on three years formal
7 probation, including 180 days in county jail.

8 **FIRST CAUSE TO REVOKE PROBATION**
9 (Clinical Training Program)

10 21. Respondent's probation is subject to revocation because he failed to
11 comply with Probation Condition (1), referenced below. The facts and circumstances regarding
12 this violation are as follows:

13 22. At all times after February 17, 2004, Condition (1) of the Disciplinary
14 Order stated:

15 "Within sixty (60) calendar days of the effective date of this
16 Decision, respondent shall enroll in a clinical training or
17 educational program equivalent to the Physician Assessment and
18 Clinical Education Program (PACE) offered at the University of
19 California - San Diego School of Medicine (hereafter "Program").

20 The Program shall consist of a Comprehensive Assessment
21 program comprised of a two (2) day assessment of respondent's
22 physical and mental health; basic clinical and communication skills
23 common to all clinicians; and medical knowledge, skill, and
24 judgment pertaining to respondent's specialty or sub-specialty, and
25 at minimum, a forty (40) hour program of clinical education in the
26 area of practice in which respondent was alleged to be deficient
27 and which takes into account data obtained from the assessment,
28 Decision(s), Accusation(s), and any other information that the
Division or its designee deems relevant. Respondent shall pay all
expenses associated with the clinical training program.

Based on respondent's performance and test results in the
assessment and clinical education, the Program will advise ... of its
recommendation(s) for the scope and length of any additional
educational or clinical training, treatment for any medical
condition, treatment for any psychological condition, or anything
else affecting respondent's practice of medicine. Respondent shall
comply with Program recommendations.

At the completion of any additional educational or clinical
training, respondent shall submit to and pass an examination.

1 ...
2 Respondent shall complete the Program within one (1) year
3 of the effective date of this Decision unless the Division or its
designee agrees in writing to a later time for completion.

4 Failure to participate in and successfully complete all
5 phases of the clinical training program outlined above is a violation
of probation."

6 23. Although Respondent timely enrolled in the PACE Program on March 9,
7 2004, his check for payment in the amount of \$5,775.00 was returned unpaid due to insufficient
8 funds. The two-day assessment was conducted on January and a report of said assessment was
9 issued in April of 2005. Respondent neither completed the requisite 40-hour clinical training
10 program nor taken any examinations to date. Respondent was notified by letter dated July 15,
11 2005, that his check (number 2788) drawn on Wells Fargo Bank had been returned unpaid and
12 requested to pay the outstanding balance to the PACE Program, but Respondent has failed to do
13 so. Respondent has neither requested nor been granted an extension of time for compliance with
14 condition (1) from/by the Medical Board of California.

15 **SECOND CAUSE TO REVOKE PROBATION**
16 (Obey All Laws)

17 24. Respondent's probation is subject to revocation because he failed to
18 comply with Probation Condition (5), referenced below. The facts and circumstances regarding
19 this violation are as follows:

20 25. At all times after February 17, 2004, Condition (5) of the Disciplinary
21 Order stated, "Respondent shall obey all federal, state, and local laws, all rules governing the
22 practice of medicine in California and remain in full compliance with any court ordered criminal
23 probation, payments, and other orders."

24 26. Complainant re-alleges paragraphs 11 through 19 above, as if fully set
25 forth at this point.

26 **THIRD CAUSE TO REVOKE PROBATION**
27 (Cost recovery)

28 27. Respondent's probation is subject to revocation because he failed to

1 comply with Probation Condition (13), referenced below. The facts and circumstances regarding
2 this violation are as follows:

3 28. At all times after February 17, 2004, Condition (13) of the Disciplinary
4 Order stated:

5 "Respondent shall reimburse the Division the amount of ten
6 thousand dollars (\$10,000.00) for its investigative and prosecution
7 costs. Reimbursement shall be made in quarterly installment
8 payments. The first installment payment shall be due and payable
9 within ninety (90) days from the date of this Decision. Thereafter,
10 installment payments are due and payable on March 31, June 30,
11 September 30, and December 31 of each calendar year until
12 payment in full (sic). Each installment payment shall be in an
13 amount not less than five hundred dollars (\$500.00.) ... The filing
14 of bankruptcy or period of non-practice by respondent shall not
15 relieve respondent of his obligation to reimburse the Division for
16 its costs."

17 29. As of March 6, 2006, Respondent paid the Division \$2,675.00 (two
18 thousand six-hundred-seventy-five dollars) for cost recovery, which is below the amount due
19 pursuant to the terms of condition (13) cited above, which, as of March 6, 2006, equaled \$3,500
20 (three thousand five hundred dollars.)

21 **FOURTH CAUSE TO REVOKE PROBATION**
22 (Probation Monitoring Costs)

23 30. Respondent's probation is subject to revocation because he failed to
24 comply with Probation Condition (15), referenced below. The facts and circumstances regarding
25 this violation are as follows:

26 31. At all times after February 17, 2004, Condition (15) of the Disciplinary
27 Order stated:

28 "Respondent shall pay the costs associated with probation
monitoring each and every year of probation, as designated by the
Division, which may be adjusted on an annual basis. Such costs
shall be payable to the Medical Board of California and delivered
to the Division or its designee no later than January 31 of each
calendar year. Failure to pay costs within thirty (30) calendar days
of the due date is a violation of probation."

32. Respondent failed to pay the costs associated with probation monitoring in
2004 and 2005, respectively.

DISCIPLINE CONSIDERATIONS

33. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about May 6, 1996, in a prior disciplinary action entitled "*In the Matter of the Accusation Against John Wesley Shellcroft, II, M.D.*," case number 09-93-27318, the Board issued a decision effective on June 5, 1996, revoking Respondent's Physician and Surgeon's Certificate. The revocation was stayed, and Respondent's Certificate was placed on probation with certain terms and conditions for a period of five (5) years. A copy of the decision in case number 09-93-27318 (*In the Matter of the Accusation Against John Wesley Shellcroft, II, M.D.*) is attached as Exhibit "B" and is incorporated by reference. In the Stipulated Settlement, Respondent admitted that he had committed repeated negligent acts in the course of his care and treatment of patient D.V. in 1993, and other female patients between 1991 and 1993. Respondent admitted that he had made inappropriate sexual comments and jokes with sexual overtones during office visits and examinations and thereby subjected his license to disciplinary action pursuant to Code sections 2234, subdivision (c) (repeated negligent acts). The decision is now final and is incorporated by reference as if fully set forth.

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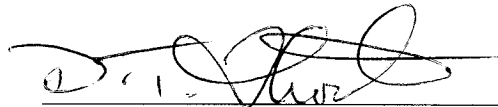
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1 **PRAYER**

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Medical Board of California issue a decision:

- 4 1. Revoking or suspending Physician's and Surgeon's Certificate number G
5 44107, issued to John Wesley Shellcroft, II;
6 2. Ordering John Wesley Shellcroft to pay the Medical Board of California
7 the costs of probation monitoring if Respondent's Certificate is placed on probation;
8 3. Taking such other and further action as deemed necessary and proper.

9 DATED: August 15, 2006
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12 DAVID T. THORNTON
13 Executive Director
14 Medical Board of California
15 Department of Consumer Affairs
16 State of California
17 Complainant
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